

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 4245 OF 2006

Akola Distt. Central Co-op. Bank Ltd. & anr.

V.

Div. Jt. Registrar, Co-op. Societies & anr.

Office Notes, Office Memoranda of Coram
 appearances, Court's orders or directions
 and Registrar's orders

Court's or Judge's orders

Mr.A.P. Tathod Advocate for the petitioners.
 Mr.Dhote, A.G.P., for Respondent no.1.
 Mr. B.N. Mohta Advocate for Respondent no.2.

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CORAM: A.B. CHAUDHARI, J.
DATED : 24th JULY, 2007.

Heard learned counsel for the parties.

Learned counsel for the petitioners submits that the impugned order in Revision passed by Divisional Joint Registrar is illegal as respondent no.2 did not join the auction-purchaser as party respondent to the revisional proceedings. He submits that no fruitful purpose can be served by taking an order of remand and hence the said order is liable to be set aside.

2. *Per contra*, learned A.G.P. vehemently

opposing the petition, submitted that the Recovery Officer followed the procedure and, therefore, the Revisional Authority has rightly remitted the matter to the said authority.

3. Mr.B.N. Mohta, learned counsel for respondent no.2, submitted that the Revisional Authority has given cogent reasons for setting aside the auction, namely valuation was not made before the property was put to auction, that the procedure laid down in Rule 107 of the Maharashtra Co-operative Societies Rules was not followed and, therefore, the remand order deserves to be maintained.

4. Having heard the learned counsel for the parties and having gone through the impugned order, I find that the petitioner-bank has hardly any dispute with the finding recorded by the Revisional Authority about the procedure being not followed by the Recovery Officer. The petitioner, however, contended that it is of no use to remand the matter as the property has

passed to the auction-purchaser. In my opinion, the Revisional Authority has rightly found that since the procedure was not followed, the auction itself is vitiated. If that is so, the Revisional Authority has rightly remitted the matter for following the procedure afresh and doing the needful. Auction-purchaser can also be made a party after remand so that he has an opportunity to contest under Rule 107. In view of this, there is hardly any need to interfere with the impugned order. Petition is, therefore, rejected.

JUDGE

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